

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI

SCOTT AND RHONDA BURNETT,	)	
RYAN HENDRICKSON, JEROD BREIT,	)	
SCOTT TRUPIANO, JEREMY KEEL,	)	
HOLLEE ELLIS, and FRANCES HARVEY,	)	
on behalf of themselves and all others	)	
similarly situated,	)	
	)	
Plaintiffs,	)	No: 4:19-cv-00332-SRB
	)	
v.	)	
	)	
THE NATIONAL ASSOCIATION OF	)	Judge Stephen R. Bough
REALTORS, REALOGY HOLDINGS	)	
CORP., HOMESERVICES OF AMERICA,	)	
INC., BHH AFFILIATES, LLC, HSF	)	
AFFILIATES, LLC, RE/MAX, LLC, and	)	
KELLER WILLIAMS REALTY, INC.,	)	
	)	
Defendants.	)	

**THE HOMESERVICES DEFENDANTS' MOTION TO DEEM DOCKET NOS. 1351/1352  
and 1353/1354 AS FILED BY THE HOMESERVICES DEFENDANTS**

**OR, IN THE ALTERNATIVE**

**FOR LEAVE TO REFILE DOCKET NOS. 1351/1352 and 1353/1354 UNDER THE  
NAMES OF THE HOMESERVICES DEFENDANTS**

On January 8, 2024, Defendant Keller Williams timely filed a motion for new trial (Docs. 1351 and 1352) and for judgment as a matter of law (Docs. 1353 and 1354). The HomeServices Defendants<sup>1</sup> joined and incorporated these filings by reference:

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<sup>1</sup> HOMESERVICES OF AMERICA, INC., BHH AFFILIATES, LLC, HSF AFFILIATES, LLC

Doc	Filer	Title	HSD Joinder
1352	KW	DEFENDANT KELLER WILLIAMS REALTY, INC.'S MOTION FOR NEW TRIAL	"To avoid duplicative briefing, the HomeServices Defendants fully join and incorporate by reference the arguments elaborating those grounds in the Rule 59(a) motions filed concurrently by the other Defendants. See The National Association of REALTORS® Motion for a New Trial; Keller Williams Realty, Inc.'s Motion for a New Trial." Doc. 1358 at 4 fn.
1354	KW	DEFENDANT KELLER WILLIAMS REALTY, INC.'S RENEWED MOTION FOR JUDGMENT AS A MATTER OF LAW	"The HomeServices Defendants also join in full in the Rule 50(b) motions filed by NAR and Keller Williams and incorporate the arguments in those motions herein." Doc. 1350 at 3 n.2.

On February 2, 2024, Keller Williams purported to withdraw "without prejudice" the above-referenced motions. Doc. 1373.

The HomeServices Defendants expressly joined and incorporated by reference each motion filed by Keller Williams. As a result, Keller Williams' purported withdrawal of its motions is ineffective as to the HomeServices Defendants.<sup>2</sup> The HomeServices Defendants therefore respectfully request that the Court enter an order deeming the motion for new trial (Docs. 1351 and 1352) and for judgment as a matter of law (Docs. 1353 and 1354), as each filed on behalf of the HomeServices Defendants.

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<sup>2</sup> Further supporting this Motion is the fact that Keller Williams has reserved the right to "renew" the supposedly withdrawn motions "in the event the settlement or settlement agreement is rescinded." Doc. 1373 at 1. It is in the interest of judicial efficiency and economy for the Court to resolve all of the post trial motions at once, as opposed to leaving these two motions out of the post trial resolution, subject to renewal at some unknown time.

In the alternative, the HomeServices Defendants respectfully request leave of Court to refile the motion for new trial (Docs. 1351 and 1352) and for judgment as a matter of law (Docs. 1353 and 1354) as new docket entries, signed by counsel for the HomeServices Defendants.

Dated: February 6, 2024

/s/ Robert D. MacGill

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## **CERTIFICATE OF SERVICE**

I hereby certify that the foregoing was served by CMECF on all counsel of record  
on February 6, 2024.

/s/Robert D. MacGill

One of the HomeServices Defendants' Attorneys